

ORIGINAL



0000084241

RECEIVED

2008 APR 21 A 11: 52

AZ CORP COMMISSION  
DOCKET CONTROL

FENNEMORE CRAIG, P.C.  
Jay L. Shapiro (No. 014650)  
Todd C. Wiley (No. 015358)  
Patrick J. Black (No. 017141)  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
Telephone (602)916-5000  
Attorneys for Pine Water Company

**BEFORE THE ARIZONA CORPORATION COMMISSION**

RAYMOND R. PUGEL AND JULIE B.  
PUGEL AS TRUSTEES OF THE RAYMOND  
R. PUGEL AND JULIE B. PUGEL FAMILY  
TRUST, and ROBERT RANDALL AND  
SALLY RANDALL

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-06-0407

Arizona Corporation Commission

**DOCKETED**

APR 21 2008

DOCKETED BY

nr

ASSET TRUST MANAGEMENT, CORP.,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-06-0613

JAMES HILL and SIOUX HILL, husband and  
wife as trustees of THE HILL FAMILY TRUST,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-07-0100

BRENT WEEKES,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-07-0019


(Consolidated)

**NOTICE OF FILING TESTIMONY**

1 Pine Water Company hereby submits this Notice of Filing Testimony in the above-  
2 referenced matter. Specifically, filed herewith is the Supplement to Rebuttal Testimony  
3 of James Bossert.

4 DATED this 21st day of April, 2008.

6 FENNEMORE CRAIG, P.C.

7  
8  
9 By   
10 Jay L. Shapiro  
11 Todd Wiley  
12 Patrick J. Black  
13 3003 North Central Avenue, Suite 2600  
14 Phoenix, Arizona 85012  
Attorneys for Pine Water Company

15 ORIGINAL and nineteen (19) copies of the  
16 foregoing filed this 21st day of April, 2008:

17 Docket Control  
18 Arizona Corporation Commission  
19 1200 W. Washington St.  
Phoenix, AZ 85007

20  
21 **Copy of the foregoing hand delivered**  
this 21st day of April, to:

22 Dwight D. Nodes  
23 Assistant Chief Administrative Law Judge  
24 Arizona Corporation Commission  
25 1200 W. Washington Street  
Phoenix, AZ 85007

1 Kevin Torrey  
2 Legal Division  
3 Arizona Corporation Commission  
4 1200 West Washington  
5 Phoenix, Arizona 85007

6 Ernest Johnson, Director  
7 Utilities Division  
8 Arizona Corporation Commission  
9 1200 West Washington Street  
10 Phoenix, Arizona 85007

11 **COPIES mailed**  
12 this 21st day of April, 2008 to:

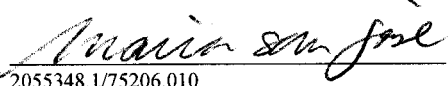
13 John G. Gliege  
14 Stephanie J. Gliege  
15 Gliege Law Offices, PLLC  
16 P.O. Box 1388  
17 Flagstaff, AZ 86002-1388

18 David W. Davis  
19 Turley, Swan & Childers, P.C.  
20 3101 N. Central Avenue, Suite 1300  
21 Phoenix, AZ 85012

22 Robert M. Cassaro  
23 P.O. Box 1522  
24 Pine, AZ 85544

25 Barbara Hall  
26 P.O. Box 2198  
Pine, AZ 85544

William F. Haney  
3018 E. Mallory Street  
Mesa, AZ 85213

  
2055348.1/75206.010

FENNEMORE CRAIG, P.C.  
Jay L. Shapiro (No. 014650)  
Todd C. Wiley (No. 015358)  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
Telephone (602)916-5000  
Attorneys for Pine Water Company

**BEFORE THE ARIZONA CORPORATION COMMISSION**

RAYMOND R. PUGEL AND JULIE B.  
PUGEL AS TRUSTEES OF THE RAYMOND  
R. PUGEL AND JULIE B. PUGEL FAMILY  
TRUST, and ROBERT RANDALL AND  
SALLY RANDALL

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-06-0407

ASSET TRUST MANAGEMENT, CORP.,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-06-0613

JAMES HILL and SIOUX HILL, husband and  
wife as trustees of THE HILL FAMILY  
TRUST,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO: W-03512A-07-0100  
(Consolidated)

**SUPPLEMENT TO  
REBUTTAL TESTIMONY  
OF  
JAMES BOSSERT**

**I. INTRODUCTION.**

**Q. PLEASE STATE YOUR NAME FOR THE RECORD.**

**A. James Bossert.**

**Q. MR. BOSSERT, YOU PREVIOUSLY PROVIDED REBUTTAL TESTIMONY FOR THE COMPLAINANT RAY PUGEL IN THIS CASE, CORRECT?**

**A. Yes.**

**Q. THAT TESTIMONY WAS ENTITLED "REBUTTAL TESTIMONY OF JAMES BOSSERT" AND FILED BY MR. PUGEL'S ATTORNEY IN THIS CASE, CORRECT?**

**A. Yes, that is my understanding.**

**Q. LET'S DISCUSS HOW THAT TESTIMONY CAME ABOUT. HOW DID YOU COME TO PROVIDE THAT REBUTTAL TESTIMONY?**

**A. I was contacted by Ray Pugel regarding possible testimony on the use of Project Magnolia. Mr. Pugel knew that I previously worked for Brooke Utilities and Pine Water Company, and he contacted me to provide testimony. I met with Mr. Pugel at his office regarding the testimony a couple of times. Mr. Pugel asked me various questions relating to Project Magnolia and Pine Water Company. I was then contacted by Mr. Pugel's attorney, John Gliege, regarding the testimony. Mr. Gliege asked me various questions about Pine Water Company's operation of Project Magnolia. After speaking with Mr. Gliege over the phone, Mr. Gliege drafted the "Rebuttal Testimony" and I read the testimony at Mr. Pugel's office. I believe Mr. Gliege filed the testimony with the Corporation Commission.**

1 Q. WAS BROOKE UTILITIES, PINE WATER COMPANY OR  
2 STRAWBERRY WATER COMPANY, OR ANY REPRESENTATIVES OF  
3 THEM, INVOLVED IN PREPARING AND REVIEWING YOUR  
4 TESTIMONY?

5 A. No, they were not present for or involved in any of my conversations with Mr.  
6 Gliege or Mr. Pugel, and they were not involved in drafting or reviewing the  
7 Rebuttal Testimony. Instead, Mr. Gliege drafted the testimony based on my phone  
8 conversations with him and Mr. Pugel.

9 Q. ARE YOU A FORMER EMPLOYEE OF BROOKE UTILITIES?

10 A. Yes. I was a field technician and maintenance worker for Brooke Utilities until  
11 September 2007. I assisted in operation of water facilities for Pine Water  
12 Company including Project Magnolia.

13 Q. DID EITHER MR. GLIEGE OR MR. PUGEL EXPLAIN TO YOU THE  
14 PURPOSE OF THE REBUTTAL TESTIMONY OR WHY THEY HAD  
15 CONTACTED YOU OUTSIDE THE PRESENCE OF PINE WATER  
16 COMPANY OR ITS ATTORNEYS?

17 A. No, but I knew that it was regarding their well and wanting to cede from the water  
18 company.

19 II. EMPLOYMENT WITH BROOKE UTILITIES.

20 Q. IN THE REBUTTAL TESTIMONY, YOU STATE "AS PART OF MY  
21 WORK FOR BROOKE UTILITIES I ALSO WORKED WITH THE  
22 OPERATIONS OF PINE WATER COMPANY," CORRECT?

23 A. Yes, that was included in my testimony. My job involved routine maintenance and  
24 operation of the Pine Water Company systems, including the Project Magnolia  
25 pipeline between Pine and Strawberry.  
26

1

2 **Q. YOUR TESTIMONY ALSO STATES: "I DID WORK FOR PINE AS**  
3 **DIRECTED IN THE OPERATIONS AND MAINTENANCE OF THE**  
4 **WATER SYSTEM." DO YOU RECALL THAT TESTIMONY?**

5 **A. Yes.**

6 **Q. WHO GAVE YOU DIRECTIONS RELATING TO OPERATION AND**  
7 **MAINTENANCE OF THE PINE WATER COMPANY SYSTEMS?**

8 **A. Primarily my supervisor, Dave Allred.**

9 **Q. WERE YOU THE PRIMARY WATER OPERATOR FOR PINE WATER**  
10 **COMPANY?**

11 **A. No, I was the backup operator for Pine Water Company. I also was the backup**  
12 **operator for Strawberry Water Company.**

13 **Q. WHEN DID YOUR EMPLOYMENT WITH BROOKE UTILITIES END?**

14 **A. September of 2007.**

15 **Q. WHEN WERE YOU CONTACTED BY MR. PUGEL AND MR. GLIEGE**  
16 **ABOUT THIS CASE?**

17 **A. Approximately one month after I left Brooke Utilities.**

18 **Q. NOW, WHEN YOU WERE EMPLOYED WITH BROOKE UTILITIES, DID**  
19 **YOU PLAY ANY ROLE IN WATER MANAGEMENT DECISIONS FOR**  
20 **PINE WATER COMPANY OR STRAWBERRY WATER COMPANY?**

21 **A. No, I was not involved in any management decisions of Pine Water Company or**  
22 **Strawberry Water Company. I also was not involved in any decisions regarding**  
23 **water sources and supplies for those companies.**

24 **Q. DID YOU HAVE ANY INVOLVEMENT IN COMPANY DECISIONS**  
25 **REGARDING WATER TRANSFERS THROUGH THE PROJECT**  
26 **MAGNOLIA PIPELINE IN 2007?**

1 A. No, my only involvement was operating the pumps as directed by Mr. Allred.

2 Q. DID YOU PLAY ANY ROLE IN MAKING DECISIONS REGARDING  
3 WATER HAULING FOR STRAWBERRY WATER COMPANY OR PINE  
4 WATER COMPANY IN 2007?

5 A. No. My only involvement relating to water hauling was that I was present when  
6 water hauling trucks delivered water to Pine or Strawberry, and offloaded their  
7 water at the storage tanks.

8 III. WATER PUMPING THROUGH PROJECT MAGNOLIA.

9 Q. IN YOUR TESTIMONY YOU STATE THAT "A SUBSTANTIAL AMOUNT  
10 OF WATER WAS PUMPED" FROM PINE WATER COMPANY TO  
11 STRAWBERRY WATER COMPANY DURING THE SUMMER OF 2007,  
12 CORRECT?

13 A. Yes.

14 Q. ON WHOSE INSTRUCTIONS DID YOU MAKE THOSE WATER  
15 TRANSFERS?

16 A. Dave Allred, my supervisor at Brooke Utilities.

17 Q. DO YOU KNOW THE SOURCE OF THE WATER YOU WERE  
18 TRANSFERRING THROUGH THE PIPELINE IN THE SUMMER OF  
19 2007?

20 A. No.

21 Q. DO YOU KNOW WHETHER THE WATER TRANSFERRED BY YOU  
22 THROUGH PROJECT MAGNOLIA FROM PINE TO STRAWBERRY  
23 WAS WATER PROVIDED BY PINE WATER COMPANY OR WATER  
24 HAULED FOR STRAWBERRY WATER COMPANY BUT OFFLOADED  
25 AT THE PINE WATER COMPANY STORAGE TANK?

26 A. I don't know. I simply turned on the pumps and transferred water from Pine to



1 Strawberry. I do not know whether that water was water provided by Pine Water  
2 Company or water provided by Strawberry Water Company or water purchased  
3 from another water supplier.

4 **Q. DURING THE SUMMER OF 2007, DID WATER TRUCKS HAULING**  
5 **WATER INTENDED FOR STRAWBERRY WATER COMPANY**  
6 **OFFLOAD AT THE PINE WATER COMPANY STORAGE TANK?**

7 A. Yes, during the summer of 2007, I recall water supply trucks containing Strawberry  
8 water offloading at the Pine Water Company storage tank on several occasions. By  
9 Strawberry water, I mean water intended for delivery to Strawberry Water  
10 Company.

11 **Q. WHAT WAS YOUR UNDERSTANDING AS TO WHY WATER HAULING**  
12 **TRUCKS OFFLOADED "STRAWBERRY WATER" AT THE PINE**  
13 **WATER COMPANY STORAGE TANK?**

14 A. My understanding was that it was easier, faster, was more efficient and avoided the  
15 vandalism previously encountered to offload the Strawberry Water contained in the  
16 water hauling trucks at the Pine Water storage tank. The Pine Water storage tank is  
17 approximately 300,000 gallons. By comparison, the Strawberry Water storage tank  
18 is approximately 100,000 gallons. It was easier and faster to offload water hauling  
19 trucks at the Pine Water tank and ship that water to Strawberry Water Company  
20 through the Project Magnolia pipeline, as opposed to driving the water hauling  
21 trucks to Strawberry and offloading the water hauling trucks at the Strawberry  
22 Water storage tank.

23 **Q. THE REBUTTAL TESTIMONY STATES THAT WATER WAS PUMPED**  
24 **FROM PINE WATER COMPANY TO STRAWBERRY WATER**  
25 **COMPANY THROUGH PROJECT MAGNOLIA "FREQUENTLY"**  
26 **DURING THE SUMMER OF 2007, CORRECT?**

1 A. Yes.

2 Q. DO YOU RECALL SPECIFICALLY HOW MANY TIMES THAT  
3 HAPPENED DURING THE SUMMER OF 2007?

4 A. No, I do not know exactly how many times that happened. But I believe it  
5 happened approximately a dozen times in 2007.

6 Q. WHO DIRECTED YOU TO MAKE THOSE WATER TRANSFERS FROM  
7 PINE TO STRAWBERRY?

8 A. Mr. Allred. He would tell me to turn on the Project Magnolia pumps and how  
9 much water should be pumped to Strawberry, typically 20,000-30,000 gallons.

10 Q. HOW MANY TOTAL GALLONS DID YOU SHIP FROM PINE TO  
11 STRAWBERRY IN THE SUMMER OF 2007?

12 A. I do not know exactly how many gallons I transported from Pine to Strawberry.

13 Q. CAN YOU APPROXIMATE HOW MANY GALLONS YOU DELIVERED  
14 FROM PINE WATER COMPANY TO STRAWBERRY WATER  
15 COMPANY THROUGH THE PROJECT MAGNOLIA PIPELINE DURING  
16 THE SUMMER OF 2007?

17 A. Mr. Allred typically would specify delivery of 20-30,000 gallons of water to  
18 Strawberry on each occasion. I would guess I transported 300,000-360,000 gallons  
19 of water to Strawberry in 2007.

20 Q. DO YOU CONSIDER THAT A "SUBSTANTIAL" AMOUNT OF WATER  
21 IN THE CONTEXT OF PINE WATER COMPANY?

22 A. No, given the total water usage and demand in Pine and Strawberry during the  
23 summer, that was not a significant amount of water. I guess that is just the way  
24 Mr. Gliege described it in the testimony he drafted.  
25  
26

1 Q. OF THAT AMOUNT, HOW MUCH OF THAT WATER WAS WATER  
2 SUPPLIED BY PINE WATER COMPANY, AS COMPARED TO WATER  
3 PROVIDED BY STRAWBERRY WATER COMPANY THROUGH WATER  
4 TRUCKS OFFLOADING AT THE PINE STORAGE TANK?

5 A. I do not know.

6 Q. TO THE EXTENT ANY OF THAT WATER DELIVERED TO  
7 STRAWBERRY THROUGH PROJECT MAGNOLIA WAS WATER  
8 SUPPLIED BY PINE WATER COMPANY THROUGH ITS OWN  
9 SOURCES, DO YOU KNOW WHETHER STRAWBERRY WATER  
10 COMPANY LATER RETURNED THAT BORROWED WATER TO PINE  
11 THROUGH THE PROJECT MAGNOLIA PIPELINE?

12 A. No, I do not have any knowledge on that issue.

13 Q. IS IT FAIR TO SAY THAT YOU DO NOT KNOW WHETHER  
14 STRAWBERRY WATER COMPANY REPLACED ANY BORROWED  
15 WATER FROM PINE WATER COMPANY THROUGH THE PROJECT  
16 MAGNOLIA PIPELINE OR THROUGH HAULED STRAWBERRY  
17 WATER OFFLOADED AT THE PINE STORAGE TANK?

18 A. Yes, that is correct.

19 Q. IN YOUR TESTIMONY, YOU REFERENCE A WATER METER ON  
20 PROJECT MAGNOLIA, CORRECT?

21 A. Yes.

22 Q. CAN YOU EXPLAIN WHAT TYPE OF METER THAT IS?

23 A. Yes, it is a totalizing meter. The totalizing meter calculates the total amount of  
24 water transferred back and forth between Pine Water Company and Strawberry  
25 Water Company through Project Magnolia. The number is always going to be  
26 positive. A movement in the clockwise direction means water is going to Pine

1 from Strawberry. All the numbers read are in an "odometer" type format except  
2 for the hundreds.

3 **Q. DURING THE SUMMER OF 2007, WHAT WAS THE READING ON THE**  
4 **TOTALIZING METER?**

5 **A.** It had a positive number. My recollection is that it had a positive number of  
6 approximately 963,000 gallons. It is always going to have a positive number and I  
7 don't know if it went backward from zero or forward.

8 **Q. MR. BOSSERT, DID YOU OBSERVE WATER TRUCKS CONTAINING**  
9 **STRAWBERRY WATER OFFLOADING AT THE PINE STORAGE TANK**  
10 **IN THE SUMMER OF 2007?**

11 **A.** Yes, on several occasions.

12 **Q. IS IT POSSIBLE THAT SOME OF THAT WATER YOU TRANSPORTED**  
13 **THROUGH PROJECT MAGNOLIA TO STRAWBERRY WAS**  
14 **STRAWBERRY WATER OFFLOADED AT THE PINE STORAGE TANK?**

15 **A.** Yes.

16 **Q. DO YOU HAVE ANY INFORMATION RELATING TO WHETHER**  
17 **CUSTOMER DEMAND IN STRAWBERRY REQUIRED BROOKE**  
18 **UTILITIES TO OFFLOAD STRAWBERRY WATER AT THE PINE**  
19 **STORAGE TANK OR TEMPORARILY TRANSPORT PINE WATER TO**  
20 **STRAWBERRY TO AVOID CUSTOMER OUTAGES?**

21 **A.** Yes, based on my knowledge at the time, both actions were necessary to avoid  
22 water shortages and customer outages in Strawberry during the summer of 2007.

23 **Q. IF PINE WATER COMPANY TEMPORARILY TRANSPORTED WATER**  
24 **TO STRAWBERRY AND THAT WATER WAS RETURNED TO PINE**  
25 **WATER COMPANY IN THE SAME AMOUNT THROUGH TRUCKS**  
26 **HAULING STRAWBERRY WATER OR THROUGH WATER**

**TRANSFERS ON PROJECT MAGNOLIA FROM STRAWBERRY TO PINE, WOULD THERE BE ANY HARM TO PINE WATER CUSTOMERS?**

A. No; if Strawberry Water Company provided Pine Water Company with an equal amount of water, either through water trucks offloading at the Pine Storage Tank or through water transfers through Project Magnolia, and Pine customers were not paying hauling charges for Strawberry water, then Pine Water Company would have the same total amount of water available for delivery to customers.

**Q. DO YOU HAVE ANYTHING ELSE TO ADD AT THIS TIME?**

A. No.

**Q. WAS THIS TESTIMONY PREPARED BY PINE WATER COMPANY'S COUNSEL BASED ON TELEPHONE CONVERSATIONS WITH YOU?**

A. Yes.

**Q. WERE YOU PROVIDED AN OPPORTUNITY TO READ THIS TESTIMONY AND MAKE ANY CHANGES YOU REQUIRED?**

A. Yes.

**Q. HAVE YOU READ AND REVIEWED THIS FINAL VERSION OF YOUR TESTIMONY?**

**A. Yes.**

**Q. BY SIGNING BELOW, DO YOU ATTEST TO THE ACCURACY AND TRUTH OF THIS TESTIMONY?**

A. Yes.

James M Bossert 4/13/06  
JAMES BOSSERT

2044317.2/75206.010